IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.21025 of 1998

Dated: 30-03-2007

Between:

M/s. Indian Brick Industries,
rep. by its Managing Partner,
Bepari Basheer Ahmed,
Industrial Development Area,
Proddatur,
Cuddapah District.

... Petitioner

and

1. The Divisional Forest Officer,
   Proddatur, Cuddapah District and 2 others.

... Respondents

ORDER:

Petitioner states that the Government of Andhra Pradesh, by G.O.Ms.No.417 Forest and Rural Development Department, dated 07-06-1975 issued proceedings stating that Ac.158-00 of forest land lying to the south of Proddatur, Yerraguntla road, be dis-reserved and

handed over to the Andhra Pradesh Industrial Infrastructure Corporation (for short, 'APIIC'), and the Chief Conservator of forest was directed to take further action by handing over the said land to APIIC Immediately. The APIIC allotted the land to various industries and he was allotted Ac.11-39 cents and possession was delivered on 11-06-1984 on payment of 50% sale consideration. After allotment, his industry was running at the industrial development area. The APIIC authorities inspected the site and running of the industry in the site allotted to him, executed registered sale deed on 26-06-1998 after receiving the balance of sale consideration. The APIIC allotted an additional extent of Acs.4-22 cents to him vide letter dated

28-03-1998, he paid the amount mentioned therein and entered into an agreement of sale of the said land on 05-05-1998. After entering into the agreement of sale with APIIC and on payment of total consideration,

he developed the land for expansion of the factory. While so, a notification was published in 'Vaartha' Telugu daily on 18-07-1998 by first respondent stating that the site allotted to him by APIIC still continues to be the reserve forestland as per records. As second respondent and his subordinates came to his site on 23-07-1998 and orally instructed him not to develop the site allotted to him by APIIC and later they are also threatening him that they will come to the site with police force and make plantation in his site by removing the structures existing on the site,

he filed the present writ petition seeking a *mandamus* to declare the action of respondents in interfering with the possession and enjoyment of the land with structures in S.No.542/1 of Rameswaram village, Proddatur Mandal, admeasuring Ac.15-61 cents on the ground that it is a reserved forest land, as arbitrary and illegal and consequently

declare that the land in S.No.542/1 of Rameswaram village, admeasuring Ac.15-61 cents which is part of Ac.158.00 allotted to APIIC by dis-reserving the same vide G.O.Ms.No.417, Forest and Rural Department, dated 07-06-1975 is not a reserved forest land.

2. A detailed counter affidavit is filed denying the averments mentioned in the affidavit filed in support of the writ petition and contended *inter alia* that Rameswaram Reserve Forest was notified under Section 16 of the Madras Forest Act, 1882 in revenue department notification 465, published at pages 1062 of the Forest Saint George Gazette, dated
12-09-1893. It is stated that G.O.Ms.No.417, dated 07-06-1975 was issued subject to certain conditions. The G.O. has not stated that Ac.158-00 area is de-reserved and the description of the boundaries of the said extent is not given in the G.O., as the area is not de-reserved. When the land is not de-reserved by notification by the Government as per the procedure, the question of handing over the land immediately to APIIC does not arise. There is no provision in the Andhra Pradesh Forest Act, 1967 to hand over the forestland to any other department/Corporation without de-reserving or in anticipation of de-reservation at a later date.

3. Heard learned counsel for the parties.

4. From the arguments advanced by learned Government Pleader and also after perusing the counter affidavit, it is clear that the forest department is proceeding on the assumption that the land allotted to APIIC is not de-reserved and as such the rights vest with the Government. I am unable to appreciate the said contention. In fact, a total extent of Acs.158-00 of land was allotted to APIIC, however, an extent of

Acs.100-00 was again taken over by the revenue department for allotment of house sites to weaker sections and 400 persons were allotted house sites and in turn they constructed houses. Out of the remaining Acs.19-00, only an extent of about Acs.15-00 was allotted to petitioner for the purpose of establishing an industry. If really, it is a fact that there is no

de-reservation and the forest department still continues to be the owner of the said land, the forest department would have raised objection even with regard to the allotment of the said Acs.60-00 to weaker sections who constructed houses.

5. From the facts it is clear that the forest department is opposing the establishment of the petitioner's Unit only, for the best reasons known to it. In fact, the learned counsel has drawn my attention to an unreported judgment of this Court in Crl.P.Nos.4743 and 4745 of 2000. The facts in that case are that the forest department filed a case in C.C.No.110 of 1999 against the petitioner herein on the file of the Court of the Additional Judicial Magistrate of First Class, Proddatur, Cuddapah District, and another case against some others in C.C.No.109 of 1999, alleging that petitioners therein have trespassed into the forestland and when they approached this Court and filed the aforesaid criminal petitions invoking the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973, this Court allowed the said petitions, and while quashing the cases against the petitioners therein observed that the de-reservation has taken place on 07-06-1975 and possession was delivered to APIIC. Further, the stand taken by the Additional Public Prosecutor in those petitions is that in terms of the Forest (Conservation) Act, 1980 permission from the Central Government is required for de-reservation and as the said

permission was not obtained, the de-reservation could not take place. This was also negatived by the learned Judge on the ground that the Central Act i.e. the Forest (Conservation) Act, 1980 has come into effect with effect from 27-12-1980, whereas the lands in question were given to APIIC in terms of G.O.Ms.No.417, dated 07-06-1975 i.e. much prior to the promulgation of the said Central Act. All this clearly leads to inference that for obvious reasons, the petitioner is harassed on the ground that title of the land is still with the forest department.

6. In the said backdrop, this Court has no hesitation to come to the conclusion that the de-reservation has taken place long back and APIIC has become the absolute owner of the entire extent of Ac.158-00 cents of land and in turn petitioner was given an extent of Acs.15-61 cents for the purpose of establishing a big industry.

7. Accordingly, the writ petition is allowed and respondents are directed not to interfere with the peaceful possession and enjoyment of petitioner unit. No costs.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.30-03-2007
GLV